

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Danielle Cirese Merritt,

Bky Case No.: 22-41691
Chapter 7

Debtor.

NOTICE AND MOTION FOR AUTHORITY TO SELL REAL ESTATE

Erik A. Ahlgren, the Trustee of the bankruptcy estate of the above-named debtor, respectfully requests authority to sell certain real estate pursuant to 11 U.S.C. 363.

NOTICE OF MOTION

The court will hold a hearing on this motion on November 20, 2024, at 10:00 a.m. Courtroom 2C, United States Courthouse, 316 N Robert Street, St. Paul, Minnesota, or as soon thereafter as counsel can be heard.

Any response to this motion must be filed and served by delivery or mail not later than, Wednesday, November 13, 2024, which is 7 days before the time set for the hearing (including Saturdays, Sundays, and holidays), **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

MOTION

1. On October 11, 2022, Debtor filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code. Debtor's Case was converted to Chapter 7 on March 8, 2024. The case is now pending in this court.

2. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bank. P. 2002(a)(2) and (c)(1) and 6004(a),(b). This proceeding is a core

proceeding.

3. This motion arises under 11 U.S.C. §363 and Fed. R. Bankr. P. 6004. This motion is filed under Fed. R. Bankr. P. 9013.

4. Debtor's estate and Randall Merritt each hold, respectively, a one-half interest in the in the real estate located at 5767 Highway 55 East, Buffalo, Minnesota and legally described as follows:

Range 25, Wright County, Minnesota described as follows: Commencing at the East quarter corner of said Section 24, thence South along the section line 1295.7 feet to the South line of said North Half of Southeast Quarter, thence North 89 °32' West along said South line, 1259.2 feet for a point of beginning of tract to be described, thence north 88°18' West along said South line 525.5 feet, thence North 1°42' East 909.0 feet to the Southwesterly line of Trunk Highway Number 55, thence Southeasterly along said Highway line 712.75 feet, thence Southeasterly 416.4 feet more or less to the point of beginning. (the "Property").

5. By order dated July 18, 2024, Adversary Case 24-04053, this Court authorized Trustee to sell the Property, including the estate's interest and the interest of all co-owners pursuant to the provisions of 11 U.S.C. §363(h), and charge Randall Merritt with his share of the costs and expenses of the sale pursuant to the provisions of 11 U.S.C. §363(j).

6. Trustee proposes to sell the Property to Sean Wick, 2700 Monterey Ave S, St Louis Park, MN 55416 (the "Purchaser") for the sum of \$30,000. The Property is being sold "AS-IS and subject to all liens and encumbrances including the mortgage dated July 15, 2019 and filed July 18, 2019, as Doc. No.: A1400556 in the Wright County Minnesota recorder's office (the "Mortgage"). The Mortgage lender has indicated that the Mortgage payoff amount as of October 18, 2024 is \$397,668.36. As of the date hereof, real estate taxes payable in 2024 are half paid and there are no delinquent taxes. The Trustee believes that the Property could be sold in the range of \$450,000 - \$500,000 but there would be difficulties in selling the Property,

including the fact that Randall Merritt is currently living in the Property. Purchaser is Randall Merritt's cousin and is purchasing the Property to help Mr. Merritt.

7. Based on the foregoing, Trustee moves the Court for authority to sell the Property for a total purchase price of \$30,0000 pursuant to the terms of the purchase agreement therefore and to distribute the sale proceeds as follows:

- a. First, \$99.00 to the Purchaser for state deed tax;
- b. Second, \$1,800.00 real estate commission to Chad Loch, ReMax Today's Properties;
- c. Of the remaining \$28,101.00 sales proceeds, \$14,050.50 shall be paid to Trustee on behalf of the Debtor's bankruptcy estate and \$14,050.50 shall be paid to Randall Merritt, co-owner.

8. Trustee believes that any tax consequence of this transaction shall be smaller than the net recovery that will be received by the bankruptcy estate.

9. To successfully implement the sale, Trustee also seeks a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h).

WHEREFORE, Trustee respectfully requests entry of an order authorizing the sale of the Property and distribution of sales proceeds as set forth herein, waiving the fourteen-day stay under Bankruptcy Rule 6004(h), and granting such other and further relief as this Court deems just and proper.

Dated: October 15, 2024

Signed: /e/Erik A. Ahlgren
Erik A. Ahlgren (#191814)
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220 W Washington Ave, Ste 105
Fergus Falls, MN 56537
218-998-2775
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Verification. I, Erik A. Ahlgren, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: October 15, 2024

Signed: /e/ Erik A. Ahlgren

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PROPOSED ORDER

This matter came before the court upon on a Motion for Authority to Sell Real Estate (the “Motion”) filed by Erik A. Ahlgren, Trustee in this matter. Based upon the file and record before the court,

IT IS HEREBY ORDERED:

1. Trustee is authorized to sell, the real property located at 5767 Highway 55 East, Buffalo, Minnesota and legally described as follows:

Range 25, Wright County, Minnesota described as follows: Commencing at the East quarter corner of said Section 24, thence South along the section line 1295.7 feet to the South line of said North Half of Southeast Quarter, thence North 89 °32' West along said South line, 1259.2 feet for a point of beginning of tract to be described, thence north 88°18' West along said South line 525.5 feet, thence North 1°42' East 909.0 feet to the Southwesterly line of Trunk Highway Number 55, thence Southeasterly along said Highway line 712.75 feet, thence Southeasterly 416.4 feet more or less to the point of beginning. (the “Property”)

to Sean Wick (the “Purchaser”) for the sum of \$30,000.

2. The Trustee is authorized to distribute the \$30,000.00 sale proceeds from the sale of the Property as follows:

- a. First, \$99.00 to the Purchaser for state deed tax;
- b. Second, \$1,800.00 real estate commission to Chad Loch, ReMax Today’s Properties;

c. Of the remaining \$28,101.00 sale proceeds, \$14,050.50 shall be paid to Trustee on behalf of the Debtor's bankruptcy estate and \$14,050.50 shall be paid to co-owner Randall Merritt.

3. Trustee is authorized to execute all documents necessary effectuate this Order.

4. This order shall be effective immediately notwithstanding Bankruptcy Rule 6004(h).

Dated:

Kesha L Tanabe
United States Bankruptcy Judge